No. 10-868

SUPREME COURT, U.S.
FILED
FEB 8 - 2011
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In the Supreme Court of the United States

MATTHEW CATE, *Petitioner, et al.*

v.

JOHN PIRTLE, *Respondent, et al.*

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITIONERS' SUPPLEMENTAL BRIEF

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Petitioners file this supplemental brief to inform this Court that on January 31, 2011, in light of this Court's decision in *Swarthout* v. *Cooke*, No. 10-333, the Ninth Circuit Court of Appeals withdrew its disposition in *Mosley* v. *Oroski*, which is one of the five cases presented in this consolidated petition. The Ninth Circuit's order is attached

Respectfully submitted,

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February 4, 2011

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED
JAN 31 2011

MOLLY C DWYER, CLERK
U S COURT OF APPEALS

RON MOSLEY, Petitioner – Appellant, v. S OROSKI, Respondent – Appellee.	No. 08-15327 D.C. No. CV-05-04260-TEH Northern District of California, San Francisco ORDER

RON MOSLEY, Petitioner – Appellant, v. S. OROSKI, Respondent – Appellee.	No. 08-15389 D.C. No. CV-05-04260-TEH Northern District of California, San Francisco

Before: ALARCÓN and RYMER, Circuit Judges.

In light of the Supreme Court's decision in *Swarthout v. Cooke*, No. 10-333, 2011 WL 197627 (Jan. 24, 2011) (per curiam), the disposition filed on November 24, 2010 is withdrawn. Further

proceedings are stayed pending final resolution of *Cooke v. Solis*, 606 F.3d 1206 (9th Cir. 2010), and *Clay v. Kane*, 384 Fed. App'x 544 (9th Cir. 2010), in this court. The parties are requested to file a notice memorandum with the Clerk of this court as soon as decisions have been rendered in these cases.